

REMARKS

Claims 1-7, 10, and 16 are pending. Claims 1, 7, and 16 have been amended. Support for the changes to claims 1, 7, and 16 can be found throughout the specification. New claims 17-18 have been added. Support for the subject matter of new claims 17 and 18 can be found throughout the specification. Claims 8 and 11-15 have been canceled in the present amendment. The Applicant respectfully requests reconsideration of the application.

Claim Rejections – 35 USC §103

Claims 1-3 and 5-6 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Nakajima et al. (hereinafter Nakajima) (US 2002/0001274) and Okumura et al. (US 6,584,050) and further in view of Nakajima et al. (US 2001/0036134). This rejection is respectfully traversed.

As recited in amended claim 1, the Lead-In area of the presently claimed invention includes a specific area having a bi-phased High Frequency Modulated (HFM) groove and a fixed pattern of straight pits formed along the HFM groove. In sharp contrast, Nakajima discloses a Lead-In area having pits formed *instead of* a groove, i.e., Nakajima teaches away from a Lead-In area having both a HFM groove and straight pits formed along the groove. The Okumura patent and the Nakajima et al. publication are silent as to a Lead-In area having pits formed along a HFM groove. Since neither of the cited references, taken alone or in combination, teach all the limitations of the claimed invention, the Applicant respectfully submits that a *prima facie* case of obviousness has not been established, and that claim 1 is allowable. Claims 2-3 and 5-6 depend, either directly or ultimately, from claim 1, rendering them also allowable for at least the same reasons as set forth above.

Claims 4, 7-8, and 10-16 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Nakajima and Okumura and in view of Nakajima et al. (US 2001/0036134), as applied to claims 1-3 and 5-6 above, and further in view of Applicants Admitted Prior Art (AAPA).

The rejection of claim 4 is predicated on the above characterization of the Nakajima publications and the Okumura patent, and is respectfully traversed, for the reasons pointed out above. Accordingly, the Applicant respectfully submits that the rejection of claim 4 lacks foundation and should be withdrawn.

As discussed above, the Nakajima publications and the Okumura patent do not teach a Lead-In area having a bi-phased High Frequency Modulated (HFM) groove and a fixed pattern of straight pits formed along the HFM groove. AAPA is silent as to this feature. Claims 7 and 16 have been amended to include “wherein the fixed pattern of the straight pre-pits is formed along the HFM groove.” As neither of the cited references, taken alone or in combination, teach all the limitations of the claimed invention, the Applicant respectfully submits that a *prima facie* case of obviousness has not been established, and that claims 7 and 16 are allowable. Claim 10 depends from claim 7, rendering it also allowable for at least the same reasons.

CONCLUSION

In view of the above remarks and amendments, the Applicant respectfully submits that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Pursuant to 37 CFR §§ 1.17 and 1.136(a), the Applicant petitions for a one (1) month extension of time for filing a reply to the March 20, 2008 Office Action, and submit the required \$120.00 extension fee herewith.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By



Terry L. Clark, Reg. No. 32,644

P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

TLC/PXL:eab